



General Assembly

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***Amendment***

LCO No. 8809

Offered by:

REP. STRATTON, 17<sup>th</sup> Dist.

To: Subst. House Bill No. 6687

File No. 836

Cal. No. 317

***"AN ACT CONCERNING REDUCTION OF MERCURY IN THE ENVIRONMENT."***

1 Strike out everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) As used in sections 1 to 11, inclusive, of this act:

4 (1) "Mercury" means elemental mercury and mercury compounds;

5 (2) "Mercury-added product" means a product, commodity,  
6 chemical or component of a product that contains mercury that is  
7 intentionally added to the product, commodity, chemical or  
8 component for any reason. "Mercury-added product" includes, but is  
9 not limited to, formulated mercury-added products and fabricated  
10 mercury-added products. "Mercury-added product" does not include  
11 any packaging component, as defined in subdivision (3) of section 22a-  
12 255h of the general statutes;

13 (3) "Formulated mercury-added product" means a mercury-added

14 product that is sold as a consistent mixture of chemicals, including, but  
15 not limited to, laboratory chemicals, materials used for cleaning,  
16 maintenance or disinfection, cosmetics, pharmaceuticals, coating  
17 materials, acids, alkalites, bleach or sodium hypochlorite,  
18 pharmaceutical products, stains, reagents, preservatives, fixatives,  
19 buffers and dyes;

20 (4) "Fabricated mercury-added product" means a mercury-added  
21 product that consists of a combination of individual components that  
22 combine to make a single unit, including, but not limited to, mercury-  
23 added measuring devices, lamps and switches;

24 (5) "Mercury fever thermometer" means a mercury-added product  
25 that is used for measuring body temperature, excluding a digital  
26 thermometer that includes a button cell battery containing mercury;

27 (6) "Mercury-added novelty" means a mercury-added product  
28 intended mainly for personal or household enjoyment or adornment,  
29 including, but not limited to, products intended for use as practical  
30 jokes, figurines, adornments, toys, games, cards, ornaments, yard  
31 statutes and figures, candles, jewelry, holiday decorations or footwear  
32 or other items of apparel. A product is not a "mercury-added novelty"  
33 solely on the basis that it includes a removable button cell battery  
34 containing mercury;

35 (7) "Manufacturer" means any person, that (A) produces a mercury-  
36 added product, or (B) serves as an importer or domestic distributor of  
37 a mercury-added product produced outside the United States. In the  
38 case of a multi-component product, "manufacturer" means the last  
39 manufacturer to produce or assemble the product, unless the multi-  
40 component mercury-added product is produced outside the United  
41 States, in which case "manufacturer" means the importer or domestic  
42 distributor;

43 (8) "Person" means any individual, organization, partnership, joint  
44 venture, association, firm, limited liability company, corporation or  
45 other entity, and includes a municipality, the federal government, the

46 state or any instrumentality of the state, or other governmental entity  
47 and any officer or governing or managing body of any partnership,  
48 association, firm or corporation or any member or manager of a  
49 limited liability company;

50 (9) "School" means a public school, as defined in section 10-183b of  
51 the general statutes or a private elementary or secondary school,  
52 attendance at which meets the requirements of section 10-184 of the  
53 general statutes excluding state vocational schools;

54 (10) "Vehicle" means any device capable of being moved upon a  
55 public highway and any device in, upon or by which any person or  
56 property is or may be transported or drawn upon a public highway,  
57 but does not include devices moved by human or animal power or  
58 used exclusively upon stationary rails or tracks;

59 (11) "Scrap metal" means used or discarded items that consist  
60 predominantly of ferrous metals, aluminum, brass, copper, lead,  
61 chromium, tin, nickel or alloys;

62 (12) "Solid waste" means unwanted or discarded solid, liquid,  
63 semisolid or contained gaseous material, including, but not limited to,  
64 demolition debris, material burned or otherwise processed at a  
65 resources recovery facility or incinerator, material processed at a  
66 recycling facility and sludges or other residue from a water pollution  
67 abatement facility, water supply treatment plant or air pollution  
68 control facility;

69 (13) "Commissioner" means the Commissioner of Environmental  
70 Protection;

71 (14) "Department" means the Department of Environmental  
72 Protection;

73 (15) "Pollution abatement facility" means any equipment, plant,  
74 treatment works, structure, machinery, apparatus or land or any  
75 combination thereof, acquired, used, constructed or operated for the

76 storage, collection, reduction, recycling, reclamation, disposal,  
77 separation or treatment of water or wastes, or for the final disposal of  
78 residues resulting from the treatment of water or wastes, including,  
79 but not limited to; pumping and ventilating stations, facilities, plants  
80 and works; outfall sewers, interceptor sewers and collector sewers; and  
81 other real or personal property and appurtenances incident to their use  
82 or operation;

83 (16) "Subsurface sewage disposal system" means a system consisting  
84 of a house or collection sewer, a septic tank followed by a leaching  
85 system, any necessary pumps or siphons and any groundwater control  
86 system on which the operation of the leaching system is dependent.

87 Sec. 2. (NEW) (a) On or after April 1, 2002, no mercury-added  
88 product shall be introduced into commerce for sale or use or  
89 distributed for promotional purposes in the state without prior  
90 notification, in writing, by the manufacturer of the product or its  
91 industry trade group to the commissioner in accordance with this  
92 section. Such notification shall at a minimum include (1) a brief  
93 description of the product or category of products to be introduced  
94 into commerce for sale or use or distributed; (2) an identification of  
95 each individual product by its mercury content in one of the following  
96 ranges: Zero to five milligrams, greater than five milligrams to ten  
97 milligrams, greater than ten milligrams to fifty milligrams, greater  
98 than fifty milligrams to one hundred milligrams, greater than one  
99 hundred milligrams to one thousand milligrams and greater than one  
100 thousand milligrams; (3) an identification of the purpose for mercury  
101 in each component of the product; (4) an identification of current  
102 programs and new initiatives in the state that are focused on the  
103 economically efficient recycling of such mercury-added products and  
104 sources of and accessibility of data regarding collection programs and  
105 the amount of mercury-added product collected and recovered by  
106 such programs; and (5) the name and address of the manufacturer and  
107 the name, address and phone number of a contact person at the  
108 manufacturer. The manufacturer shall revise the information in the  
109 notification whenever there is significant change in the information or

110 when requested by the commissioner.

111 (b) Any mercury-added product for which federal law governs  
112 notice in a manner that preempts state authority shall be exempt from  
113 the requirements of this section.

114 (c) The manufacturer shall update and revise the information in the  
115 notification whenever there is a significant increase or decrease in the  
116 mercury of an individual product or product category, or when  
117 requested by the department.

118 (d) Medical products not intended for use by a nonmedical  
119 institution or nonmedical personnel shall not be subject to subsection  
120 (a) of this section, provided that on or before January 1, 2002, the  
121 Commissions of Environmental Protection and Public Health convene  
122 an advisory group consisting of, but not limited to, representatives of  
123 hospitals and other health care institutions and physicians to develop  
124 an inventory of instruments, laboratory chemicals, or other medical  
125 products that contain mercury. Such inventory shall be completed on  
126 or before January 1, 2003.

127 (e) The provisions of chapter 14 of the general statutes shall govern  
128 public disclosure of business information submitted to the department  
129 pursuant to this section.

130 (f) No later than October 1, 2002, all component and formulated  
131 mercury-added product manufacturers must provide the total amount  
132 of mercury contained in each category of mercury-added products  
133 sold in the United States during the previous calendar year.  
134 Information required pursuant to this section may be provided by  
135 either an individual manufacturer or aggregated for an industry by a  
136 trade group. The manufacturer or trade group shall report the updated  
137 information required no later than April 1, 2005, from the effective date  
138 of this act, and every three years thereafter.

139 (g) A composite product manufacturer is not required to provide  
140 mercury content information on its mercury-added component,

141 provided the component manufacturer has provided the information  
142 to the agency, and further provided the composite product  
143 manufacturer notifies the commissioner of the specific components  
144 used in the composite product, and identifies the manufacturer of the  
145 components.

146 Sec. 3. (NEW) (a) On and after July 1, 2002, no person shall  
147 introduce into commerce or offer for use by any means, including e-  
148 commerce, or distribute for promotional purposes in the state any  
149 mercury-added novelty. A manufacturer that produces or sells  
150 mercury-added novelties shall notify retailers that sell mercury-added  
151 novelties about such product ban and inform such retailers of how to  
152 dispose of the remaining inventory in accordance with chapter 445 of  
153 the general statutes.

154 (b) On and after January 1, 2002, no person shall offer for sale or use  
155 by any means, including e-commerce, or distribute for promotional  
156 purposes mercury fever thermometers except by prescription written  
157 by a physician. A manufacturer of mercury fever thermometers shall  
158 provide the buyer or the recipient with notice of mercury content,  
159 instructions on proper disposal, instructions that clearly describe how  
160 to carefully handle the thermometer to avoid breakage and  
161 instructions on proper cleanup should a breakage occur.

162 (c) On and after July 1, 2002, no school shall use or purchase for use  
163 or maintain inventories of bulk elemental mercury or mercury  
164 compounds. A manufacturer that produces, sells or distributes such  
165 materials shall notify schools about the provisions of this subsection in  
166 accordance with chapter 445 of the general statutes and instruct  
167 schools how to dispose of the remaining inventory properly. This  
168 subsection does not apply to mercury-added products other than bulk  
169 elemental mercury compounds. The Commissioner of Environmental  
170 Protection, in consultation with the Commissioner of Education, shall  
171 examine the feasibility of implementing a program for the collection of  
172 bulk elemental mercury or mercury compounds at schools, and shall  
173 implement such a program within available appropriations.

174 (d) The provisions of this section shall not apply to a vocational  
175 dental education or training school, except that on and after July 1,  
176 2002, no vocational dental education or training school shall use  
177 mercury amalgam unless such school has developed and implemented  
178 a plan approved by the commissioner that assures best management  
179 practices are used to prevent discharge of mercury into the waters of  
180 the state, any pollution abatement facility or subsurface sewage  
181 disposal system, and to properly handle and recycle or dispose of  
182 waste elemental mercury and amalgam. Such plan shall provide for an  
183 education program for students regarding the hazards of mercury and  
184 best management practices.

185 (e) On and after July 1, 2002, no person shall offer for sale or use by  
186 any means, including e-commerce, or distribute for promotional  
187 purposes mercury dairy manometers. A manufacturer that produce or  
188 sell mercury dairy manometers shall notify retailers about the  
189 provisions of this subsection and how to dispose of the remaining  
190 inventory properly in accordance with chapter 445 of the general  
191 statutes. The Commissioner of Environmental Protection, in  
192 consultation with the Commissioner of Agriculture, shall examine the  
193 feasibility of implementing a collection and replacement program for  
194 dairy manometers, and shall implement such a program within  
195 available appropriations.

196 Sec. 4. (NEW) (a) On and after July 1, 2003, no person shall  
197 introduce into commerce for sale or use by any means, including e-  
198 commerce, or distribute for promotional purposes any mercury-added  
199 product unless the product, its packaging or its accompanying care  
200 and use manual are labeled in accordance with this section, any  
201 regulations adopted pursuant to this section or the terms of any  
202 approved alternative labeling or notification granted under subsection  
203 (g) of this section. A retailer shall not be found in violation of this  
204 subsection if the retailer lacked knowledge that the product contained  
205 mercury.

206 (b) If a mercury-added product is a component of another product,

207 either the product containing the component or the component shall be  
208 labeled as provided in this section. The product labeling shall identify  
209 the component with sufficient detail so that the component may be  
210 readily located for removal.

211 (c) All product labeling shall be a size that is readable and shall  
212 inform the purchaser, using words or symbols, that mercury or  
213 hazardous material is present in the product and that the product shall  
214 be disposed of properly or recycled.

215 (d) Any labels affixed to the product shall be constructed of  
216 materials that are sufficiently durable to remain legible for the useful  
217 life of the product.

218 (e) The manufacturer of a product shall be responsible for the  
219 product labeling required under this section, unless the wholesaler or  
220 retailer agrees in writing to accept the responsibility of implementing  
221 an alternative to the labeling requirements of this section approved  
222 under subsection (g) of this section.

223 (f) (1) In the case of vehicles, (A) manufacturers shall meet the  
224 product labeling requirements of this section for vehicles by placing a  
225 label on the door of the vehicles that lists the mercury-added  
226 components that may be present in the vehicle, and (B) manufacturers  
227 need not label the mercury-added components of the vehicle; (2)  
228 manufacturers of button cell batteries, lamps and products whose only  
229 mercury containing component is a button cell battery or a mercury-  
230 added lamp shall be exempt from this section; (3) manufacturers of  
231 nonprescription drug products that are regulated by the federal Food  
232 and Drug Administration shall be exempt from this section; and (4)  
233 manufacturers of dental amalgam shall follow the best management  
234 practices guidelines for manufacturers developed by the commissioner  
235 pursuant to section 10 of this act; and (5) medical equipment not  
236 intended for use by nonmedical personnel are exempt from this  
237 section.

238 (g) (1) A manufacturer may apply to the Commissioner of



239 Environmental Protection for an alternative to the requirements of  
240 subsections (a) to (f), inclusive, of this section if: (A) Compliance with  
241 the requirements is not feasible, or (B) the proposed alternative would  
242 be at least as effective in providing presale notification of mercury  
243 content and in providing instructions on proper disposal.

244 (2) Applications for an alternative to the requirements of  
245 subsections (a) to (f), inclusive, of this section shall: (A) Document the  
246 justification for the requested alternative; (B) describe how the  
247 alternative ensures that purchasers or recipients of mercury-added  
248 products are made aware of mercury content prior to purchase or  
249 receipt; (C) describe how a person discarding the product will be made  
250 aware of the need for proper handling to ensure that it does not  
251 become solid waste or is not discharged to the waters of the state or is  
252 not disposed in a pollution abatement facility or subsurface sewage  
253 disposal system; (D) document the capability of all parties necessary to  
254 implement the proposed alternative; and (E) describe the performance  
255 measures to be utilized by the manufacturer to demonstrate that the  
256 alternative is providing effective presale notification and predisposal  
257 notification.

258 (3) The commissioner may approve, deny, modify or condition a  
259 request for an alternative to the requirements of subsections (a) to (f),  
260 inclusive, of this section. An approval shall be for a period of no more  
261 than two years and may, upon continued eligibility under the criteria  
262 of this section and compliance with the conditions of its prior  
263 approval, be renewed. Requests for renewals shall be submitted ninety  
264 days before the expiration of the approval.

265 (4) Notwithstanding the provisions of this section, a person who  
266 sells mercury-added lamps to the owner or operator of an industrial,  
267 commercial or office building or to any person who replaces or  
268 removes from service outdoor lamps that contain mercury shall clearly  
269 inform the purchaser, in writing, on the invoice for the lamps or in a  
270 separate document that such lamps contain mercury, a hazardous  
271 substance that is regulated by federal and state law, and that such

272 lamps may not be disposed of as solid waste. Retail establishments that  
273 incidentally sell mercury-added lamps to purchasers are exempt from  
274 the requirements of this subsection. A person who contracts with the  
275 owner or operator of an industrial, commercial or office building or  
276 with a person responsible for outdoor lighting to remove from service  
277 mercury-added lamps shall clearly inform, in writing, the person for  
278 whom the work is being done that the lamps being removed from  
279 service contain mercury and explain what the contractor's  
280 arrangements are for the management of the mercury in the removed  
281 lamps.

282 (5) In carrying out the requirements of this act, the department shall  
283 strive for consistency with labeling programs in other states.

284 (6) Notwithstanding the provisions of this section, the manufacturer  
285 of a mercury-added product may meet the requirements of this section  
286 by demonstrating compliance with the requirements for the labeling of  
287 mercury-added products, including labeling approved by another  
288 state.

289 Sec. 5. (NEW) (a) On and after July 1, 2003, no person shall  
290 knowingly (1) dispose of a mercury-added product or a mercury-  
291 added component in a manner other than by recycling or disposal in  
292 accordance with the provisions of chapter 446d or 446k of the general  
293 statutes or Subtitle C of the Resource Conservation and Recovery Act  
294 of 1976, 42 USC 6901 et seq., as amended, or (2) discharge mercury to  
295 the waters of the state, a pollution abatement facility or subsurface  
296 sewage disposal system, unless such discharge is in compliance with  
297 all local, state and federal applicable requirements.

298 (b) Each permittee of a solid waste facility shall (1) post signs at the  
299 facility providing notice of the prohibition of the disposal and  
300 incineration of mercury-added products, including a list of the most  
301 common product types; (2) provide written notification either in  
302 contractual agreements or to the municipalities serviced by the facility  
303 on a frequency determined by the commissioner of the prohibition on

304 the disposal and incineration of mercury-added products; and (3)  
305 report to the commissioner annually on the progress in eliminating  
306 such products from the waste stream. A solid waste facility shall not be  
307 considered in violation of this act if it unknowingly receives a  
308 mercury-added product or mercury-added component.

309 (c) On or after two years from the date the commissioner adopts a  
310 universal waste rule in accordance with the Resource Conservation  
311 and Recovery Act of 1976, 42 USC 6901, et seq., as amended, solid  
312 waste disposal facilities, scrap metal processors or businesses that  
313 accept appliances or vehicles for disposal, reclamation or recycling  
314 shall remove mercury-added components, except for lamps used for  
315 back lighting and displays, prior to crushing, shredding or processing  
316 for disposal or reuse.

317 (d) A formulated mercury-added product that is a cosmetic or  
318 pharmaceutical product subject to the requirements imposed by the  
319 federal Food and Drug Administration is exempt from the provisions  
320 of this section.

321 (e) This section shall not apply to any person who has disposed of a  
322 button cell battery or any other products designated by the  
323 commissioner.

324 Sec. 6. (NEW) (a) The commissioner shall review the state  
325 regulatory requirements pursuant to chapter 446d or 446k of the  
326 general statutes governing handling of waste from mercury-added  
327 products and, if necessary, shall amend regulations as appropriate to  
328 facilitate collection.

329 (b) Formulated mercury-added products intended to be totally  
330 consumed in use, including, but not limited to, reagents, cosmetics,  
331 pharmaceuticals and other laboratory chemicals, are exempt from the  
332 provisions of this section.

333 Sec. 7. (NEW) (a) On and after July 1, 2002, a manufacturer of  
334 formulated mercury-added products that are offered for sale or use by

335 any means, including e-commerce, or distributed to a health care  
336 facility for promotional purposes shall provide the recipient health  
337 care facility a certificate of analysis documenting the range of mercury  
338 content of the product. Sampling and analytical techniques used in the  
339 analysis shall be capable of detecting mercury to limits of one part per  
340 billion or less.

341 (b) The manufacturer shall develop and implement a plan to assure  
342 that the certificate of analysis accurately represents the mercury in a  
343 formulated mercury-added product. Such plan shall, at a minimum,  
344 include an annual analysis of the formulated product.

345 (c) The manufacturer, upon request of the commissioner, shall  
346 provide to the commissioner copies of certificates of analysis for the  
347 purposes of assessing compliance with this section.

348 Sec. 8. (NEW) No person shall introduce into commerce for sale or  
349 use by any means, including e-commerce, or distribute for  
350 promotional purposes or provide elemental mercury except for  
351 manufacturing, recycling or disposal services without providing a  
352 Material Safety Data Sheet, as defined in 42 USC 11049. On and after  
353 July 1, 2002, the seller, distributor or provider shall require the  
354 purchaser or recipient at the time of receipt of any elemental mercury  
355 to sign a statement that the purchaser or recipient (1) will use the  
356 mercury only for medical, dental amalgam dispose-caps, research or  
357 manufacturing purposes; (2) understands that mercury is toxic and  
358 that the purchaser will store and use it appropriately so that no person  
359 is exposed to the mercury; and (3) will not place or allow anyone  
360 under the control of the purchaser or recipient to cause the mercury to  
361 become solid waste or be discharged into waters of the state or be  
362 disposed of in a pollution abatement facility or subsurface sewage  
363 disposal system.

364 Sec. 9. (NEW) Mercury-added products with a code or date of  
365 manufacture indicating they were manufactured prior to October 1,  
366 2001, or mercury-added products for which the manufacturer provides

367 documentation that the product was manufactured prior to October 1,  
368 2001, are exempt from sections 4 and 8 of this act.

369       Sec. 10. (NEW) (a) The commissioner, in consultation with other  
370 state agencies, may implement a comprehensive program for public  
371 education, outreach and assistance for manufacturers, households,  
372 waste generators, local and regional solid waste management agencies,  
373 businesses, health care facilities, scrap metal processors, recyclers,  
374 dismantlers, institutions, schools and other interested groups. This  
375 public education, outreach and assistance program may focus on the  
376 hazards of mercury; the requirements and obligations of individuals,  
377 manufacturers and agencies under this act and voluntary efforts that  
378 individuals, institutions and businesses can undertake to help further  
379 reduce mercury in the environment. The commissioner, in conjunction  
380 with manufacturers of mercury-added products and other affected  
381 businesses, may promote the development and implementation of  
382 such public education and technical assistance programs.

383       (b) The commissioner may cooperate with other states and  
384 provinces and regional organizations in developing public education,  
385 outreach and assistance programs.

386       (c) The commissioner shall prepare and publish guidelines for best  
387 management practices for dental offices and laboratories. Such  
388 guidelines shall not be considered "regulations" as defined in section 4-  
389 166 of the general statutes.

390       Sec. 11. (NEW) (a) No later than July 1, 2002, the Department of  
391 Administrative Services shall revise its policies, rules and procedures  
392 to give priority and preference to the purchase of equipment, supplies  
393 and other products that contain no intentionally added mercury  
394 compounds or components, unless such product is determined to be  
395 more environmentally beneficial when evaluated based on the cost of  
396 its life. Such comparison shall evaluate overall environmental impacts  
397 as well as whether the nonmercury-added product performs a similar  
398 function or produces a product of comparable quality at a reasonable

399 price. In circumstances where a product other than a mercury-added  
400 product is not available, preference shall be given to the purchase of  
401 products that contain the least amount of mercury added to the  
402 product necessary for the required or environmentally preferable  
403 performance.

404 (b) The Commissioner of Administrative Services may give a price  
405 preference of up to ten per cent for products that contain no mercury  
406 or less mercury that are determined to be environmentally preferable  
407 pursuant to subsection (a) of this section for all state purchases,  
408 including purchases made by other state agencies with state funds.  
409 Energy efficient lamps for lighting purposes shall be purchased in  
410 preference to other less efficient lighting options. To the maximum  
411 extent possible, purchases shall contain the lowest total mercury  
412 content per lumen hour available. The state shall take action to assure  
413 that spent lamps are recycled.

414 (c) The Commissioner of Administrative Services shall specify  
415 products other than mercury-added products or reduced mercury-  
416 added products, as applicable, in procurement bid documents.

417 (d) State contracts for employee dental insurance negotiated after  
418 the effective date of this section shall provide equal coverage for  
419 fillings other than mercury-added fillings and mercury amalgam  
420 fillings at no additional expense to the state employee."